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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,470	07/01/2003	Dimitri Peter Zafirogh	SWZ-010	1592
29626	7590	04/01/2005	EXAMINER	
THE H.T. THAN LAW GROUP 1010 WISCONSIN AVENUE NW SUITE 580 WASHINGTON, DC 20007			MATZEK, MATTHEW D	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,470

Applicant(s)

ZAFIROGLU, DIMITRI PETER

Examiner

Matthew D. Matzek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) 23-37 and 63-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 38-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>all</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-22 and 38-62, in the reply filed on 2/3/2005 is acknowledged.

Claim Rejections - 35 USC § 112

2. Claims 39 and 40 recite the limitation "liquid permeable layer" in claim 38. There is insufficient antecedent basis for this limitation in the claim.
3. Claims 49 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "closed layer" is indefinite as no further explanation for said closed layer has been provided in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-8, 11, 18, 20, 38, 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Justesen et al. (US Patent 5,902,663).
5. Justesen et al. disclose a low-stretch and dimensionally stable floor covering comprising polymer-containing pile material, which is retained to a polymer containing primary backing (Abstract). The points at which the legs of the pile are embedded in the backing serve as the depressed areas and the tops of the extended pile fibers serve as the elevated areas in this Office Action. The fibers on the outer surface of the fibrous outer

layer in the elevated areas are substantially unbonded to the adhesive layer (Figs. 1, 2 and 4). All the fibers of the fibrous outer layer are embedded in the adhesive layer and extend to an elevation greater than their thickness (Fig. 4). The areas between the embedded depressed areas and the elevated areas serve as transition areas (Figs. 1, 2, and 4). Claim 1 of the applied invention teaches the use of a liquid impermeable adhesive backing to the article of Justesen et al. The pile of the disclosed article have been stitched to the primary backing (adhesive binder) layer (col. 14, lines 7-14).

Claim Rejections - 35 USC § 102/103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 12-13, 15-17, 21 and 62 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Justesen et al.

7. The Justesen et al. patent is silent as to the density and the elevation to thickness ratio of the fibrous layer of the claimed invention. However as the applied invention meets the compositional limitations set forth in independent claim 1, it is reasonable to presume that the applied invention possesses the instantly claimed densities and the elevation to thickness ratios or in the alternative it would have been obvious to one of ordinary skill in the art to have made the applied article with said instantly claimed limitations. The skilled artisan would have been motivated by the desire to successfully create a low-stretch and dimensionally stable floor covering.

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8. Claim 62 is rejected as the presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656.

9. Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292.

Claim Rejections - 35 USC § 102

10. Claims 1, 6-7, 9, 19-20, 22, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (US Patent 4,588,629).

11. Taylor discloses a fabric suitable for embossing to form a pattern thereon comprises a substrate of a thermo-plastic material, which carries a coating of fibers (Abstract). The fibers are colored and the substrate is either colorless or of a color which contrasts with the fibers (Abstract). When the fibers are compressed into the substrate the latter is at least partially revealed so as to produce an area of color, which contrasts with the fibers adjacent to such area (Abstract). The points at which the legs of the fibers are embedded in the backing serve as the depressed areas and the tops of the extended pile fibers serve as the elevated areas in this Office Action. The fibers on the outer surface of the fibrous outer layer in the elevated areas are substantially unbonded to the adhesive layer (Figs. 1 and 2). All the fibers of the fibrous outer layer are embedded in the adhesive layer and extend to an elevation greater than their thickness (Figs. 1 and 2). The areas between the embedded depressed areas and the elevated areas serve as

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transition areas (Figs. 1 and 2). The applied invention may be embossed so as to indent the filler and emboss the facing layer providing an undulating profile (col. 2, lines 25-35 and Fig. 2). Flock fibers are used in the outer surface of the fibrous layer (col. 3, lines 48-50).

12. Claims 1, 6-8, 10, 14, 20, 41, and 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Schilling et al. (US Patent 6,162,748).

13. Schilling et al. disclose a method of making a woven textile surface covering involving applying a resin composition layer onto a back surface of a woven layer (Abstract). The woven layer is formed by weaving warp and weft yarns. The resin composition layer is provided with a resin composition and a cross-linking agent effective to wet, penetrate, and encapsulate the warp and weft yarns (Abstract). The Examiner takes the position that the density of the peak regions of the elevated area is substantially the same as the density of the fibrous outer layer as the entire fibrous outer layer has been impregnated with the resin composition. The areas between the embedded depressed areas and the elevated areas serve as transition areas (Fig. 1). The resin composition may comprise acrylic compounds, which are water-soluble and as such are water permeable (col. 2, lines 10-15). The warp yarns of Figure 1 possess an elevated (raised) position over the weft yarns. The woven warp and weft yarns define interstices there between thereby forming a lattice or lace structure (col. 1, lines 58-62).

Claim Rejections - 35 USC § 102/103

14. Claims 2-5, 12-13, and 21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schilling et al.

15. The Schilling et al. patent is silent as to the density and the elevation to thickness ratio of the fibrous layer of the claimed invention. However as the applied invention meets the compositional limitations set forth in independent claim 1, it is reasonable to presume that the applied invention possesses the instantly claimed densities and the elevation to thickness ratios or in the alternative it would have been obvious to one of ordinary skill in the art to have made the applied article with said instantly claimed limitations. The skilled artisan would have been motivated by the desire to successfully create a woven textile surface covering.

Claim Rejections - 35 USC § 102

16. Claims 1, 9, 19, 38, 42, 51-52, and 54-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al. (US Patent 5,990,377).

17. Chen et al. disclose a dual-zoned, three-dimensional, resilient absorbent nonwoven web with elevated regions that has been apertured such that the apertures or openings overlay a portion of the depressed regions (Abstract). The nonwoven web is adhered to a backsheet, and comprises pulp fibers including softwood fibers (col. 3, line 25-col. 4, line 40 and Fig. 2). The nonwoven web may be a spunbond, meltblown, or bonded carded webs or other nonwoven structures in the art (col. 5, lines 6-15). In Example 15 pressure sensitive adhesive was used to join the nonwoven web to a backsheet and adhesive bonding is preferred to create a more intimately bonded structure (col. 47, lines 48-57). In one embodiment of the applied invention the backsheet is liquid impermeable (col. 8, lines 5-10). Figure 2 shows the reverse side opposite the fibrous outer layer with an undulating profile. Figure 6 shows the depressed areas of the applied invention comprising a plurality of parallel lines, in particular two intersecting groups of

parallel lines. Figure 5 displays a second pattern of spaced apart depressed areas wherein the plurality of central portions of the depressed areas have been removed from the composite.

Claim Rejections - 35 USC § 102/103

18. Claims 2-5, and 12-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chen et al.

19. The Chen et al. patent is silent as to the density and the elevation to thickness ratio of the fibrous layer of the claimed invention. However as the applied invention meets the compositional limitations set forth in independent claim 1, it is reasonable to presume that the applied invention possesses the instantly claimed densities and the elevation to thickness ratios or in the alternative it would have been obvious to one of ordinary skill in the art to have made the applied article with said instantly claimed limitations. The skilled artisan would have been motivated by the desire to successfully create a dual-zoned, three-dimensional, resilient absorbent nonwoven web.

Claim Rejections - 35 USC § 103

20. Claims 43, 53, and 58-61 are rejected under 35 U.S.C. 103(a) as obvious over Chen et al.

21. Chen et al. disclose that the nonwoven web of Chen et al. may be a spunbond, meltblown, or bonded carded webs or other nonwoven structures in the art (col. 5, lines 6-15). The Examiner takes the position that stitch-bonding and spun-lacing are well known techniques in the art to construct nonwoven webs and as such it would have been obvious to one of ordinary skill in the art to have made the article of Chen et al. via either

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process. The skilled artisan would have been motivated by the desire to successfully create a nonwoven web.

22. Example 17 uses a nonwoven web of basis weights between 10 and 100 g/m² or ~0.29 and ~2.9 oz/yd² (calculation done by Examiner) (col. 50, lines 30-35).

23. Chen et al. teaches the combining of cellulosic and synthetic fibers including pulp fibers and short, cut synthetic fibers (col. 28, line 55 – col. 29, line 15). The Examiner takes the position that while staple fibers have not been explicitly mentioned, short, cut synthetic fibers may be deemed staple fibers (Complete Textile Glossary). The cut, synthetic fiber are preferably less than 22 mm or ~0.9 inches (Calculation done by Examiner).

24. Claim 53 is rejected as it would have been obvious to one of ordinary skill in the art to have made the invention of Chen et al. with a plurality of wavy lines in place of the disclosed pattern. The skilled artisan would have been motivated by the desire to create a more aesthetically pleasing article or one that is more comfortable to the user of said article.

Conclusion

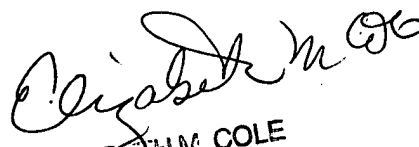
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm


ELIZABETH M. COLE
PRIMARY EXAMINER